

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

BYRON MARTIN,  
Plaintiff

v.

File No. 1:07-cv-175

R. TASHA WALLIS, JOHN DOE #1,  
JOHN DOE #2, STEVEN COLLIER,  
DANIEL AKERS, RANDY STOVALL,  
LAURA KASH, MR. NAPIER,  
MIKE BOWLING, DANNY LANE,  
MITCHELL BRANDENBURG,  
MELISSA BRUNELLE, FRANK  
KINCAID, DONNA STIVERS,  
KATHY CHILDERS, JOHN DOES 1-5,  
SEAN SELBY, LARRY SMITH,  
TOM ROBERTS and KEVIN  
CHARBONEAU,  
Defendants

**ORDER**

The Magistrate Judge's Report and Recommendation was filed July 17, 2008. (Paper 53.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

The defendants' motions to dismiss (Papers 45 and 49) are hereby GRANTED to the extent that they seek dismissal based upon 28 U.S.C. § 1915(g). The *in forma pauperis* order in this case (Paper 2) is vacated and this case shall be DISMISSED unless plaintiff pays the filing fee within 30 days of this Order. Failure to pay the fee in a timely manner will result in dismissal.

If the fee is paid in accordance with the Court's instructions, the Court will consider the remaining arguments for dismissal set forth by defendants Selby, Smith, Roberts, Charboneau and Wallis. (Paper 49.)

Plaintiff's motion for default judgment (Paper 8) is DENIED.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 12<sup>th</sup> day of August, 2008.

/s/ J. Garvan Murtha  
J. Garvan Murtha  
United States District Judge